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Agenda item 161
Extension of the term of the permanent judges of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Security Council
Sixty-first year

Identical letters dated 3 May 2006 from the Secretary-General to the President of the General Assembly and the President of the Security Council

I have the honour to transmit a letter dated 21 March 2006 from Judge Erik Møse, President of the International Criminal Tribunal for Rwanda, which directly relates to the ability of the Tribunal to implement its Completion Strategy (see annex).

In his letter, the President of the Tribunal recalls that the term of office of the permanent judges of the Tribunal will come to an end on 24 May 2007, and states that there are a number of multi-accused trials that are currently under way before the Tribunal that are likely to continue beyond that date.

All single accused trials currently in progress are due to be completed between May 2006 and May 2007. New trials will commence as soon as judges and courtroom space become available and will continue well beyond May 2007. The President of the Tribunal is of the view that it would not be a viable option to delay the commencement of the new trials until after the newly elected judges assume their duties on 25 May 2007 since this would result in a loss of time and make it impossible to respect the deadlines in the Tribunal's Completion Strategy.

This means that most if not all of the permanent judges will be engaged in trials when their four-year term expires on 24 May 2007. Should certain judges not be re-elected, particular cases might have to resume de novo with new judges. The holding of elections in 2007, as envisaged by the Statute, is therefore likely to lead to delays in some trials and to the restarting of entire trials in others.

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Consequently, in order to ensure continuity and the ability of the Tribunal to implement its Completion Strategy as set out in Security Council resolution 1503 (2003) of 28 August 2003 and complete all trials by 2008, the President of the Tribunal has requested that the current term of office of the permanent judges of the Tribunal be extended until 31 December 2008.

On 31 January 2003, the General Assembly, by decision 57/414 A and in accordance with article 12 bis, paragraph 1 (b), of the Tribunal's Statute, elected from a list of candidates approved by the Security Council the following 11 judges to a four-year term of office beginning on 25 May 2003 and to end on 24 May 2007: Mansoor Ahmed (Pakistan); Sergei Aleckseievich Egorov (Russian Federation); Asoka Zoysa Gunawardana (Sri Lanka); Mehmet Güney (Turkey); Erik Møse (Norway); Arlete Ramaroson (Madagascar); Jai Ram Reddy (Fiji); William Hussein Sekule (United Republic of Tanzania); Andrésa Vaz (Senegal); Inés Mónica Weinberg de Roca (Argentina) and Lloyd George Williams (Saint Kitts and Nevis).

When Judge Ahmed resigned, after consultations with the Security Council and the General Assembly and in accordance with article 12 bis, paragraph 2, of the Tribunal Statute, I appointed Khalida Rachid Khan of Pakistan, effective 7 July 2003, for the remainder of Judge Ahmed's term of office.

When Judge Williams resigned, after consultations with the Security Council and the General Assembly and in accordance with article 12 bis, paragraph 2, of the Tribunal Statute, I appointed Charles Michael Dennis Byron of Saint Kitts and Nevis, effective April 2004, for the remainder of Judge Williams' term of office.

When Judge Gunawardana resigned, after consultations with the Security Council and the General Assembly and in accordance with article 12 bis, paragraph 2, of the Tribunal Statute, I appointed Asoka de Silva of Sri Lanka, effective 2 August 2004, for the remainder of Judge Gunawardana's term of office.

Consequently, the permanent judges whose term of office the President of the Tribunal is seeking to extend are:

Charles Michael Dennis Byron (Saint Kitts and Nevis)
Asoka de Silva (Sri Lanka)
Sergei Aleckseievich Egorov (Russian Federation)
Mehmet Güney (Turkey)
Khalida Rachid Khan (Pakistan)
Erik Møse (Norway)
Arlete Ramaroson (Madagascar)
Jai Ram Reddy (Fiji)
William Hussein Sekule (United Republic of Tanzania)
Andrésa Vaz (Senegal)
Inés Mónica Weinberg de Roca (Argentina)

As far as the financial consequences of the President's proposal are concerned, he points out that it is designed to save costs since those judges who have been elected as well as those who have been appointed to serve out an elected term would only have their terms extended until the date when the completion of trials is foreseen rather than being elected for another four years. The Security Council and the General Assembly would then, in 2008, be able to review the status of the Tribunal's permanent judges, including the two judges who at that time are assigned

to the Appeals Chamber, which under the Tribunal's Completion Strategy is expected to complete its work by the end of 2010.

The Statute of the Tribunal does not provide for extending the term of office of the permanent judges. In the absence of such a provision, the approval of the Security Council, as the parent organ of the Tribunal, and of the General Assembly, as the organ that elects its judges, would be needed in order to extend the term of office of the permanent judges until 31 December 2008.

I hereby request that the General Assembly and the Security Council grant such approval.

The President of the Tribunal is of the view that early action is needed in order to provide the Tribunal with the continuity, stability and certainty necessary for the efficient and effective planning of trials. I would therefore appreciate it if the General Assembly and the Security Council take this matter up at their earliest opportunity.

(*Signed*) Kofi A. **Annan**

Annex

[Original: English]

As the mandate of the 11 permanent judges of the International Criminal Tribunal for Rwanda expires in May 2007, elections are likely to take place at the end of 2006 or in early 2007. The purpose of the present letter is to request that the current mandate of the judges be extended to the end of 2008, which according to the Completion Strategy is the deadline for the completion of trials.

Under article 12 bis (3) of the Tribunal Statute, the four-year term of the permanent judges expires on 25 May 2007. The Tribunal is on schedule to respect the deadline set by the Security Council in its resolution 1503 (2003), according to which the ad hoc Tribunals are expected to complete all trials by the end of 2008. Therefore, at the beginning of the next four-year mandate (May 2007 to May 2011), there will be a need for nine permanent trial judges only from May 2007 to December 2008, approximately 19 months. During this important period, continuity will be of the essence in order to ensure efficiency. Extension of the judges' term of office is preferable to elections since it guarantees such continuity.

Five multi-accused trials, involving 21 accused, are currently in progress. Two or possibly three of these cases may have to continue into the next mandate. This is obvious in relation to the *Karemera et al.* case (three accused), which commenced de novo on 19 September 2005. The *Military II* trial (four accused), which is currently approaching the end of the Prosecution case, is also likely to continue after May 2007. In the *Government* case, where the Defence teams are presenting their evidence, it is possible that the trial proceedings will be completed within the current mandate but additional time will be required for deliberations and delivery of judgment.

The six single-accused cases which are currently in progress will be concluded between May 2006 and May 2007. New trials will commence as soon as judges and courtroom space become available. Those cases will continue into the next mandate and it is not a viable option to postpone their commencement until after May 2007. Such a course would result in the loss of valuable time and make it impossible to respect the deadlines contained in resolution 1503 (2003).

Consequently, most if not all of the permanent judges will be engaged in trials when their current four-year term expires in May 2007. Experience shows that it is uncertain whether all of them will be re-elected. In the worse case scenario, this may lead to trials having to commence de novo with new judges. The Security Council has in the past, in some instances, prolonged the mandate of individual judges who were not re-elected. However, this was only done in part-heard cases and not with respect to other judicial activities, thereby leading to underutilization of available judicial resources. In a situation in which virtually all permanent judges will be hearing trials in May 2007, it is clearly preferable to extend their mandate instead of proceeding to elections.

Conducting trials at the international level is a complicated task. Even the most experienced judge from a national jurisdiction needs some time to acquire the necessary institutional knowledge. Replacement of the permanent judges should be avoided at this critical juncture in the Tribunal's lifespan. I am confident that most if

not all of the current permanent judges will assume their responsibility and continue to contribute to the successful completion of the mission of the Tribunal.

A proposal to prolong the mandate of the International Criminal Tribunal for the former Yugoslavia judges, made on 13 January 2004 (S/2004/53, annex), was not taken up by the Security Council. However, the situation of the International Criminal Tribunal for Rwanda is very different from that of the International Criminal Tribunal for the former Yugoslavia. Had the International Criminal Tribunal for the former Yugoslavia request been granted, the judges would have had their mandate extended from November 2005 to December 2008, which computes to 37 months, or approximately twice the 19 months envisaged by the International Criminal Tribunal for Rwanda request.

Towards the end of 2008, the work of the Appeals Chamber will continue. It is unclear at the moment what resources the Appeals Chamber may need to complete its mandate by 2010. The election of 11 permanent International Criminal Tribunal for Rwanda judges (the 2 appeals judges and 9 trials judges) with effect from 25 May 2007 would mean that they would be elected for a four-year term even though most of them might not be required to serve beyond 2008. It would be a better solution to extend their mandate for 19 months and then revisit the issue in 2008, when the situation will be clarified. An extension would also entail financial savings (no costs relating to installation of newly elected judges, repatriation of permanent judges who are not re-elected etc.).

(*Signed*) Erik **Møse**
President

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General Assembly

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Sixtieth session
Agenda items 46, 118, 120, 122, 124, 126 and 129

Integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic, social and related fields

United Nations reform: measures and proposals

Follow-up to the outcome of the Millennium Summit

Review of the efficiency of the administrative and financial functioning of the United Nations

Programme budget for the biennium 2006-2007

Improving the financial situation of the United Nations

Human resources management

Letter dated 5 June 2006 from the Permanent Representative of South Africa to the United Nations addressed to the Secretary-General

I have the honour to transmit, herewith, a statement adopted by the Special Ministerial Meeting of the Group of 77 held in Putrajaya, Malaysia, on 29 May 2006 (see annex).

On behalf of the Group of 77 and China, I would appreciate if the present letter could be circulated as a document of the sixtieth session of the General Assembly under agenda items 46, 118, 120, 122, 124, 126 and 129.

(*Signed*) Dumisan S. **Kumalo**
Ambassador and Permanent Representative of the
Republic of South Africa to the United Nations
Chairman of the Group of 77

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Annex to the letter dated 5 June 2006 from the Permanent Representative of South Africa to the United Nations addressed to the Secretary-General

STATEMENT ADOPTED BY THE SPECIAL MINISTERIAL MEETING OF THE GROUP OF 77 AND CHINA PUTRAJAYA (MALAYSIA) 29 MAY 2006

We, the Ministers of Foreign Affairs of the Group of 77 and China meeting in Putrajaya, Malaysia, on 29 May 2006, having reviewed developments in the follow up to the 2005 World Summit Outcome in the areas of United Nations System Wide Coherence, Management and Secretariat Reform, Mandate Review and on providing predictable financial resources to the United Nations, state the following:

1. We reaffirm our determination to further strengthen the role, capacity, effectiveness and efficiency of the United Nations in the field of development, and thus improve its performance, in order to realize the full potential of the organization, in accordance with the purposes and principles of the Charter of the United Nations, and to respond more effectively to the needs of Member States and in particular to the new global challenges facing the United Nations in the twenty-first century and in this regard we emphasize the need for creating an enabling environment for development and enhance global political will to assist developing countries to achieve their development goals and that to achieve the internationally agreed development goals including the Millennium Development Goals we must succeed in mainstreaming development as the central pillar of the United Nations agenda.

2. We stress that the outcomes of all major United Nations summits and conferences have laid the foundations to promote development, commitments have been made, including on systemic issues, all that is now needed is the full implementation of all commitments made at all the major United Nations summits and conferences in the economic, social and related fields.

3. We strongly believe that the United Nations should be provided with the needed support to develop its full potential in the field of international development cooperation. To that end, the realization of the right to development should be given utmost priority by the United Nations. We emphasize that the full implementation of all commitments made at the major United Nations conferences and summits in the economic, social and related fields, should be integrated and equitably mainstreamed into the work and activities of the United Nations, including the right to development, the environmental and social corporate responsibility and accountability and policy space. The United Nations system should examine ways to take account of these agreed principles in its process of decision-making.

4. We emphasize that given its universality and legitimacy, the United Nations is the apex of multilateralism. Nothing should be done to undermine its pluralism and its diversity.

5. We attach utmost importance to the full implementation of development commitments, including those relating to the strengthening of the Economic and Social Council, made in the outcomes of the major United Nations conferences and summits in the economic, social and related fields, including the World Summit Outcome. We are concerned at the slow progress in the process of consultations initiated to implement the 2005 World Summit Outcome decisions on development and call upon the developed countries to demonstrate political will so as to reach substantive agreements on development follow-up and strengthening of the Economic and Social Council.

System Wide Coherence

6. We emphasize that the System Wide Coherence process must be aimed at strengthening multilateralism and promoting equity and development including development cooperation in the United Nations. This should be achieved through an enhanced global partnership for development, including more effective assistance to developing countries.

7. We emphasize that there is a need to establish an effective and comprehensive accountability and monitoring mechanism to track the implementation by developed countries of commitments undertaken in the major United Nations conferences and summits in the economic, social and related fields and various inter-governmental bodies, to support national development strategies of developing countries.

8. We further emphasize that the United Nations is the premier international organisation and system, addressing sustainable development in its three components: namely economic development, social development and environment protection. In that regard, its role should be strengthened so as to cover the normative, analytical, policy and operational aspects of development, bearing in mind that the normative work of the organization is the outcome of an inter-governmental decision making process and is addressed to the full membership of the United Nations.

9. We stress that the fundamental characteristics of the operational activities for development of the United Nations system must be, inter alia, their universal, voluntary and grant nature, their neutrality and their multilateralism, as well as their ability to respond to the development needs of recipient countries in a flexible manner.

10. We emphasize that the United Nations General Assembly resolution entitled "Triennial comprehensive review of operational activities for development of the United Nations system", A/RES/59/250, constitutes the policy framework agreed at the inter-governmental level for the operational activities of the United Nations system and that the System Wide Coherence process must take into account these periodic reviews, at the inter-governmental level.

11. We note with concern that the multilateral development system lacks good global governance. There is a need to substantially improve coherence in mandates and roles, accountability and representation. Therefore, we support an analysis of the entire multilateral architecture. The System Wide Coherence process should focus on areas where better coordination and coherence is needed. Total or immediate restructuring of the United Nations activities or architecture should not constitute a

goal in itself. Efficiency and effectiveness is not always guaranteed by the collapse or merging of institutions. The research and studies that will be undertaken by experts on the System Wide Coherence process should focus on the major reasons hindering the achievement of the internationally agreed development goals including the MDG's. This process should show due regard for the political sensitivities of mandates and should not be a pretext to eliminate political mandates.

12. We stress that the System Wide Coherence process must take into account national conditions, and ensuring respect for national ownership, strategies and sovereignty. Greater policy space must be given to the developing countries to enable national development strategies to be comprehensively nationally owned. The United Nations work in development must be fully aligned and complementary to nationally owned development goals. The concept of coherence has to be considered in terms of the policy and institutional framework of the United Nations and should take into account the different approaches which currently exist in the pursuit of national development strategies.

13. We underscore that the United Nations should continue to have a holistic and comprehensive approach towards development. The System Wide Coherence process should also address areas such as trade, finance and macro-economic policy. Therefore the System Wide Coherence process should not limit the United Nations role into niche issues.

14. We emphasize that one of the fundamental reforms required would be for the United Nations, which is the most representative global organization, to mobilize the highest political commitment, and to provide policy directions and guidance to the Bretton Woods Institutions, the World Trade Organization and other relevant organizations and institutions that have an impact in the development of many countries. Key to promoting good governance at the international level would be the active voice and effective participation by developing countries in the international decision-making processes, in particular the Bretton Woods Institutions, which is central to promoting the legitimacy, relevance and effectiveness of the international financial system and international financial institutions.

15. We stress that the System Wide Coherence process should enhance inter-governmental oversight and coordination, including through the strengthening of the role of the Economic and Social Council in that regard.

16. We underscore that any changes that might need to be introduced to the current system, both at the country level, or at the level of the headquarters, should not lead to additional financial burden to developing countries or to unnecessary administrative costs or unwieldy management structures. Such changes should not disrupt on-going development plans and activities. The one-size fits all approach should not be applied. Diversity, different levels of development, cultural differences as well as regional and sub-regional specificities require implementation changes at the country level based on a case by case basis, taking into account national priorities and strategies and with the consent of the government concerned.

17. We stress that the United Nations system both at the headquarters and at the country level, with regards to the delivery of mandated activities and efficient management should be fully

accountable to the Member States. The oversight role of Member States over the mandated activities of different governing bodies of the funds and programmes of the United Nations should be strengthened further.

18. We stress that the objective to achieve System Wide Coherence should not be a cost cutting exercise. Reductions in administrative expenses should be redirected to programmes in each country. The principles of cost recovery should be harmonized, and its proceeds retained and spent on development programmes.

19. We underscore that financial resources should have the characteristics of predictability, sufficiency, flexibility and sustainability. For the last three decades, in general, unpredictability, insufficiency and inflexibility and unsustainability of financial resources have characterized the United Nations funds, programmes and agencies at the country level, thus crippling their ability to implement programmes successfully. The United Nations should avoid shifting resources from development activities to other activities which are donor-driven and not in line with the priorities of developing countries. We stress that core resources because of their untied nature should continue to be the bedrock of the operational activities and these resources should not be diverted away from core issues of development to donor driven priorities. The challenge of the gap between development mandates and resources needs to be given priority.

20. We reaffirm that the resident coordinator system, within the framework of national ownership, has a key role to play in the effective and efficient functioning of the United Nations system at the country level, including in the formulation of the common country assessment and the United Nations development Assistance Framework, and is a key instrument for the efficient and effective coordination of the operational activities for development of the United Nations system.

21. We reiterate the important role of UNCTAD as the focal point within the United Nations for the integrated treatment of trade and development and interrelated issues in the areas of finance, technology, investment and sustainable development. We commit ourselves and call upon the international community to work towards the strengthening of UNCTAD, to enhance its contribution in its three major pillars, namely consensus building, research and policy analysis, and technical assistance especially through increased core resources of UNCTAD. We further reiterate the need to operationalize the new functions mandated by UNCTAD XI in the areas of policy space, corporate responsibility and new and emerging fields of information and communication technology and to reinvigorate its intergovernmental machinery.

22. We underline the important role of the United Nations Regional Commissions to further contribute, within their respective mandates to the review of progress made in the implementation of and follow-up to the outcomes of major United Nations conferences and summits in the economic, social and related fields at regional level. In this regard, we stress the need to provide the necessary resources, particularly through the United Nations regular budget, for the Regional Commissions, in order to enable them to fulfil their mandates effectively.

Secretariat and Management Reform

23. We reaffirm our strong support to the United Nations, and to all collective efforts aiming at enhancing its ability to fully implement its mandates and to ensure the effective delivery of all its programmes, in particular in the social and economic development field. We firmly believe that the legitimacy and viability of any reform measures depend ultimately on the broad support of Member States of the United Nations, as well as of the United Nations staff who dedicate themselves to the values and principles of the Organization. We emphasize that measures to reform the United Nations should respond to the unique intergovernmental, multilateral and international character of the United Nations. We call on the Secretary-General to fully implement General Assembly resolution 60/260 on "Investing in the United Nations: for a stronger Organization worldwide", and stress that proposals that were not endorsed by the General Assembly should not be re-submitted.

24. We affirm that the sovereign equality of Member States, as enshrined in the Charter of the United Nations, must be respected, including throughout the reform process, irrespective of the contributions that individual Member States make to the budgets of the Organization. Any attempt to change the governance arrangements exercised through the General Assembly, its Main Committees and subsidiary and expert bodies or to exclude some Member States from contributing to the decision-making processes in the Organization contradicts the spirit and letter of the Charter. We support the provisions of General Assembly resolution 60/260 which upholds the role of Member States, through the relevant Main Committee of the General Assembly, in the consideration of budgetary and administrative matters.

25. We strongly support the oversight role performed by the General Assembly, as well as its relevant intergovernmental and expert bodies, in the planning, programming, budgeting, monitoring and evaluation. We reaffirm that the reform efforts are not intended to change the intergovernmental, multilateral and international nature of the organization but should strengthen the ability of Member States to perform this oversight and monitoring role. We stress the right of the entire membership of the United Nations to pronounce on the administration of the Organization, including on its budgetary matters.

26. We stress the importance of ensuring that the Secretariat meets the highest standards of accountability, transparency, integrity and ethical conduct. We therefore urge the Secretary-General as a matter of priority to define accountability in the Organization, establish clear accountability mechanisms to the General Assembly, and propose parameters for the application of accountability and instruments for its rigorous enforcement.

27. We welcome the management reforms adopted so far by the General Assembly. We stress that reform of human resources management, Administration of Justice, and procurement should reflect the international character of the Organization. In this regard, we:

(i) support a more fair and transparent system of internal justice where staff members are held accountable for wrongdoings, irrespective of their nationality and seniority. We stress that

corrective measures have be taken to prevent and address any instances of mismanagement, fraud and corruption, whilst ensuring that due process is followed;

(ii) underscore the need to provide concrete measures to ensure greater market access by businesses from developing countries in United Nations procurement; and

(iii) stress the need for establishing clear mechanisms to increase the representation of developing countries in the Secretariat, in particular in the senior echelons where positions in practice have invariably been held by nationals from a few countries.

Mandate review

28. We recognize the efforts by the Secretary-General to facilitate the mandate review exercise, which is intended to "strengthen and update" the programme of work of the Organization and enable it to deliver it's existing and new mandates more effectively. We stress that the one time review is limited to mandates originating from decisions adopted by the Principal Organs of the United Nations that are older than five years and have not been renewed since. Mandates that are older than five years and have been reaffirmed in the past five years do not fall within the scope of the exercise. The review should fully respect the politically sensitive mandates.

29. We stress that setting the priorities of the Organization, as reflected in legislative decisions, remains the prerogative of Member States. We emphasize that the exercise should not change the inter-governmental nature of the decision-making, oversight and monitoring processes, or re-define the roles and responsibilities of various Organs of the United Nations as identified by the Charter. We further stress that such an exercise is not aimed at cutting the costs of the Organization or to reduce the budget levels and fund more activities from within the existing resources. We agree that any savings that may result from the outcome of the exercise should be redirected to the activities of the Organization in the development area.

30. We underscore the importance of addressing the implementation of mandates and assessing the reasons for less than full or non-implementation. We also believe that Member States should be willing to increase the financial and human resources that have been allocated to programmes if the lack of resources hinders the full implementation of mandates or activities. In this regard, we reaffirm our commitment to ensure that mandates, in particular those related to development, receive adequate resources. We urge all Member States to illustrate their commitment to the Organization through a willingness to provide adequate resources to all mandate programmes and activities, especially those related to development.

Providing predictable financial resources to the United Nations

31. We emphasize that the Secretary General should receive adequate and predictable resources to undertake effectively the numerous tasks entrusted to the United Nations, as mandated by Member States. We regret the exceptional and unprecedented measure of restricting the expenditures of the Organization by authorizing the Secretary-General only to enter into expenditures limited to fifty percent of the approved budget of 2006. We underline that the measure imposed upon the Organization has adversely affected programme delivery in the Organization. We stress that this limit

on the expenditure of the Organization shall be automatically lifted upon the request of the Secretary General at the appropriate time. We call on all Member States to act accordingly.

32. We agree that the financial stability of the United Nations should not be jeopardized. We believe that efforts to use the size of financial contributions to push for the adoption of certain proposals are counterproductive and violate the obligations of Member States to provide resources for the Organization, as enshrined in its Charter, and in accordance with the principle of capacity to pay.

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Financial reports and audited financial statements, and reports of the Board of Auditors

Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Interim report of the Advisory Committee on Administrative and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions first issued a general report on peacekeeping operations in 1994 in response to a perceived need by the Committee to find a way of dealing with cross-cutting issues that pertain to more than one mission. Since 1994, the issuance of a general report has become an annual practice, although the intention of the Committee at the time was to issue such a report only when there were pressing cross-cutting issues that needed to be addressed.

2. In 2003, the Secretariat began issuing an overview report on peacekeeping operations. There is no direct link between the Secretariat's overview report and the Advisory Committee's general report. The Committee does not, in fact, take up the overview report, but does comment on issues contained therein if they pertain to issues already under consideration for inclusion in the Committee's general report.

3. The Advisory Committee found itself obliged to delay its 2006 winter session owing to the late submission of peacekeeping documentation by the Secretariat. The Committee also experienced the need to consider a number of items that are not normally taken up during its peacekeeping session. Compounding this problem was the fact that the Secretariat submitted its reports on the three largest and most complex missions last (United Nations Mission in the Sudan, United Nations Stabilization Mission in Haiti and the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC)).

4. The Advisory Committee's method of work is to first consider reports on the individual peacekeeping operations in order to identify pertinent matters. Once the

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Committee's work is done on the individual missions, and in particular the larger missions, it becomes clear which issues may be brought to the General Assembly's attention. In this connection, it should be pointed out that the Committee is yet to finalize its report on MONUC; the Secretary-General's reports on the United Nations Operation in Côte d'Ivoire, the United Nations Operation in Burundi and the United Nations Mission for the Referendum in Western Sahara are under consideration. Moreover, a number of the issues that would feature in the Committee's general report are not yet ripe for consideration. These include the impact of the Secretary-General's proposals on reform, procurement, governance and results-based budgeting in peacekeeping operations. Furthermore, a report on the role of the Office of Internal Oversight Services and a whole range of documents on human resources management issues that would have an impact on peacekeeping operations are scheduled to be submitted to the General Assembly in the fall.

5. Bearing in mind what is stated above, the Advisory Committee recommends that any consideration of cross-cutting issues at this stage should be preliminary in nature, pending a broader definitive exposition of these matters after all the relevant documentation has been received and considered. To assist the Fifth Committee in this effort, the Advisory Committee presents in the paragraphs below a brief summary of the issues of general application it has raised in reports already issued on the budgets of peacekeeping missions, on the report of the Board of Auditors, on the support account and on the United Nations Logistics Base at Brindisi, Italy. It should be noted that the Advisory Committee intends to issue its report on disarmament, demobilization and reintegration shortly and has started work on the Secretary-General's proposals concerning contingent-owned equipment.

Assignment of staff to temporary duty in other missions

6. The matter of assigning staff to temporary duty in other missions is largely confined to the United Nations Interim Force in Lebanon, the United Nations Disengagement Observer Force and the United Nations Interim Administration Mission in Kosovo. The Advisory Committee points out the need to strive for a balance between the obvious benefits of using staff from established missions to provide the necessary expertise in enabling new missions to commence operations rapidly against the need of the sending missions for the skills that they must do without on an extended basis. The prolonged absence of such staff from the sending mission leads to difficulties in ascertaining its actual staff requirement, since, over time, it becomes difficult to determine to what extent these skills are still needed and whether they have de facto been replaced by the addition of new posts. The Committee trusts that future reporting by the Secretary-General will contribute to a solution to the problem.

Use of general temporary assistance

7. There appears to be a continuing problem with the use of general temporary assistance in peacekeeping missions. The Advisory Committee has often pointed out that general temporary assistance was designed for peak workload or to replace staff on maternity or sick leave. It should therefore not to be used to carry out functions of a continuing nature and should cover periods of less than 12 months. Although exceptions have been made in the past, unless justified by special circumstances, the

procedures for the use of general temporary assistance need to be strictly adhered to. In a related matter, the Advisory Committee also raises the question of how to present general temporary assistance, which is now shown under operating costs, but sometimes also appears on staffing tables. The Committee is of the opinion that this is a civilian staff cost and should be shown as such with an appropriate and distinct tabular presentation.

Air operations

8. Starting with the 2004/05 financial year, the Department of Peacekeeping Operations has utilized a new costing structure for air operations; however, no evaluation has been conducted to determine the effects and benefits of the new costing structure. The Advisory Committee believes that the Department of Peacekeeping Operations has now had sufficient experience with implementing the new costing structure to be able to undertake a meaningful analysis of its impact. As stated in the Committee's report on the report of the Board of Auditors, the Committee joins the Board in recommending that the Administration determine whether the change of air operations contracts to the new costing structure has resulted in greater efficiency, savings or other benefits.

9. In a related matter, the Advisory Committee has reiterated its recommendation that the Department of Peacekeeping Operations continue to explore ways to increase regional management of air assets and also recommends that it further coordinate with the Department of Political Affairs with a view to sharing air assets between peacekeeping operations and special political missions.

10. The Advisory Committee has often emphasized the need to constantly monitor patterns and requirements to ensure the optimal use of air assets and to reconfigure them to respond to changing circumstances. In its report on the United Nations Mission in Liberia, the Committee indicated that the Mission had been working to find ways to increase utilization, such as altering flight schedules to accommodate more passengers or cargo; the Committee encourages other missions to follow suit.

Quick-impact projects

11. The Advisory Committee devoted considerable attention to quick-impact projects in its consideration of the current round of peacekeeping budgets. The Committee noted that, in a number of cases, the duration of these projects was approaching or had exceeded the two-year limit imposed by the General Assembly in its resolution 58/315. The Committee is of the view that it is for the General Assembly to decide whether it wishes to change the policy regarding quick-impact projects or to grant exceptions. In this connection, if, once the initial phases are over, it is decided that a quick-impact project should evolve into one of longer term, then partners should be identified, either from participating agencies or national structures, to assume the management of and responsibility for the activity. The General Assembly may also wish to bring this matter to the attention of the Peacebuilding Commission. The Committee has noted cases where overhead costs were inordinately high. The Committee reiterates its view that administrative costs should be kept to an absolute minimum, since the idea of a complex bureaucratic

infrastructure for the planning, completion and review of these projects conflicts with their very nature.

Fraud

12. The Advisory Committee has often commented on this matter. It points out that fraud cases cause a financial ripple effect in that there are indirect costs in addition to the direct costs. For example, in cases involving military personnel, the financial burden placed on Member States would include, inter alia, travel-related costs of repatriating the personnel involved and replacing them. The Committee may revert to this matter after having considered a number of forthcoming reports that touch on the role of the Office of Internal Oversight Services and the question of controls in peacekeeping missions.

Consultants

13. United Nations involvement in peacekeeping operations has reached a point where considerable expertise has been developed within the Secretariat and could be used to address most of the peacekeeping issues now confronted by the Organization. Use of consultants should therefore be limited to those special circumstances where specific technical knowledge is not available in-house. Even in those cases, and where appropriate, arrangements should be made for consultants to train United Nations staff so as to avoid the perpetual use of consultants in a particular area. The Advisory Committee has also pointed out the need to develop an effective evaluation mechanism for the use of outside expertise.

High vacancy rates

14. A number of missions continue to experience high vacancy rates; their persistence calls into question the ability of missions to carry out the functions for which they have requested the continuation of posts or new posts. The Advisory Committee reiterates its request that recruitment and placement procedures be improved. The Committee has also pointed out that a gradual replacement of international staff with national staff, wherever feasible and cost-effective, should be encouraged in peacekeeping missions and field missions in general, as it contributes to capacity-building and transfer of skills to the local population. In a related matter, the Committee has, in the past, cautioned against the use of United Nations Volunteers as "cheap labour" or for tasks that could be carried out effectively by national staff. The Committee has requested closer cooperation between the Department of Peacekeeping Operations and the United Nations Volunteers Programme, as well as the development of an effective mechanism to evaluate the performance of United Nations Volunteers in peacekeeping and field assignments.

Integrated and complex missions

15. The Advisory Committee welcomes and is closely following the continued development of the integrated mission concept. The Committee has called for

special attention to be paid to the relationship between the role of the United Nations and the role of other agencies and organizations (both within and outside the United Nations system) in peacekeeping missions, including the leadership that the United Nations should exercise.

16. The Advisory Committee has also called for special attention to be paid to the organizational structure of complex missions in order to avoid or correct unnecessary fragmentation and duplication, define blurred lines of authority and accountability and institute measures for better coordination. This matter will, no doubt, be raised again in the near future on the basis of forthcoming reports.

Conclusion

17. As stated above, the foregoing summary of issues of general application is preliminary in nature. The Advisory Committee will revert to its general report on the basis of future submissions from the Secretary-General and of the outcome of relevant deliberations in the General Assembly.

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Letter dated 7 June 2006 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

I have the honour to attach information regarding the reform of the legal and juridical system in the Republic of Uzbekistan (see annex).

I would appreciate it if you would circulate the present letter and its annex as a document of the General Assembly, under agenda item 71 (b).

(*Signed*) Alisher **Vohidov**
Permanent Representative of the Republic of Uzbekistan

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Annex to the letter dated 7 June 2006 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

[Original: Russian]

Reform of the legal and judicial system of the Republic of Uzbekistan

Since 2001, gradual and focused legal and judicial reforms have been under way in the Republic of Uzbekistan.

Guarantees and principles ensuring the independence of the judicial system enshrined in existing law in the Republic of Uzbekistan which are in keeping with universally acknowledged norms of international law, legally established procedures for electing and appointing judges and releasing them from their duties, a strict, legally established procedure for the administration of justice in criminal, administrative, civil and commercial cases and legally established liability for any interference in judicial activity indicate that an independent judicial authority is functioning in the Republic of Uzbekistan.

A series of measures aimed at strengthening the independence of the court has been implemented. The following have marked significant phases in judicial system reform: the specialization of judges in criminal, civil and commercial cases, the introduction of the institutions of appeal and reconciliation, liberalization of penalties and the reduction of preliminary investigation and detention periods. Necessary modifications to legislative norms in order to prevent interference in legal proceedings by the Prosecutor's Office have been made.

The Court of Appeal has been reformed, which means that citizens may defend their rights directly and in person in this court if they are not in agreement with a court decision which has taken effect. Legal mechanisms have been established which ensure equal rights for the defence and the prosecution in legal proceedings and which allow for a genuinely adversarial relationship between them.

A system based on the supremacy of law and incorporating an institutional legal mechanism has been established to respond to grievances regarding unlawful activities by officials.

Within the Ministry of Justice there is a department for the implementation of court decisions, and judges have been released from functions not in keeping with their position.

One of the most important goals of the legal and judicial system reform being carried out in Uzbekistan is the provision of effective protection of constitutional human rights and freedoms, in particular the right to be protected from unfounded criminal prosecution and interference in one's private life, personal inviolability and the right to a just trial.

At the same time, the essence and substance of the reforms being carried out nationally to achieve further democratic renewal in civil society and the public sector and modernization of the country, and the results of work to liberalize the legal and judicial system, point to the need to abolish the death penalty and replace it with life imprisonment or with lengthy prison sentences.

Proceeding from the principles and norms of international law and the provisions of the Constitution of the Republic of Uzbekistan which proclaim and enshrine a person's right to life, and in order to implement specific measures to further liberalize criminal penalties, a presidential decree abolishing the death penalty was issued on 1 August 2005, pursuant to which that penalty shall be completely abolished as of 1 January 2008.

Abolishing the death penalty requires a broad-based, grass-roots, public information campaign and raising people's awareness of the need to further liberalize criminal penalties and has major financial and organizational implications.

A set of measures to amend and supplement federal legislation, with international experience in the matter being taken into account and also to lay the groundwork for abolishing the death penalty is now being implemented in Uzbekistan.

In recent years, significant work has been done to ensure that law enforcement agencies conduct their activities in a lawful manner, to enhance the authority of the judicial branch as the most important guarantee of effective human rights protection, to ensure that the courts are genuinely independent and to strengthen their role in building a democratic law-based state and a robust civil society.

In order to further liberalize the judicial and legal system, ensure the gradual and consistent transfer to the courts of the power to authorize the application of compulsory procedural measures having to do with constraints on constitutional human rights and freedoms, and pursuant to articles 19, 25 and 44 of the Constitution of the Republic of Uzbekistan, which define the rights of citizens to judicial protection, on 8 August 2005 a presidential decree transferring to the courts the power to authorize detention was issued. Starting 1 January 2008, the power to authorize detention of individuals suspected or accused of committing crimes shall fall within the jurisdiction of courts, which will represent an important stage in the introduction of the institution of habeas corpus into Uzbekistan.

In order to establish a legal mechanism empowering courts to authorize detention pursuant to the requirements of the decree mentioned above, the Ministry of Justice of the Republic of Uzbekistan, jointly with the Supreme Court, the General Prosecutor's Office, the Ministry of Internal Affairs and the National Security Service of the Republic of Uzbekistan has developed a draft bill to amend and supplement the Criminal Procedure Code and the laws on judges and the Prosecutor's Office. This bill was submitted to the Government of Uzbekistan for consideration in late 2005.

The experience of other countries in matters of arrest and detention has been taken into account in the preparation of this bill.